UNITED STATES DISTRICT COUR	RT
NORTHERN DISTRICT OF NEW Y	ORK

DAVID M. LAWTON,

Plaintiff,

7:10-CV-256 (FJS/ATB)

MICHAEL ASTRUE, Commissioner of Social Security,

v.

Defendant.

APPEARANCES

OF COUNSEL

CONBOY, MCKAY, BACHMAN & KENDALL, LLP

LAWRENCE D. HASSELER, ESQ.

307 State Street Carthage, New York 13619 Attorneys for Plaintiff

SOCIAL SECURITY ADMINISTRATION OFFICE OF REGIONAL GENERAL COUNSEL, REGION II

ELLEN E. SOVERN, ESQ.

26 Federal Plaza – Room 3904 New York, New York 10278 Attorneys for Defendant

SCULLIN, Senior Judge

ORDER

Plaintiff commenced this action on March 5, 2010, seeking judicial review of Defendant's final decision denying his application for benefits. *See* Dkt. 1. In a Report-Recommendation dated November 2, 2010, Magistrate Judge Baxter recommended that this Court reverse Defendant's decision and remand this case for further proceedings, pursuant to sentence four of 42 U.S.C. § 405(g). *See* Dkt. No. 15 at 30. The parties did not file any objections to this Report-

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Recommendation.

When a party does not object to a magistrate judge's report-recommendation, the court

reviews that report-recommendation for clear error or manifest injustice. See Linares v.

Mahunik, No. 9:05-CV-625, 2009 WL 3165660, *10 (N.D.N.Y. July 16, 2009) (citation and

footnote omitted). After conducting this review, "the Court may 'accept, reject, or modify, in

whole or in part, the . . . recommendations made by the magistrate judge." Id. (quoting 28

U.S.C. § 636(b)(1)(C)).

The Court has reviewed Magistrate Judge Baxter's November 2, 2010 Report-

Recommendation for clear error and manifest injustice; and, finding none, the Court hereby

ORDERS that Magistrate Judge Baxter's November 2, 2010 Report-Recommendation is

ACCEPTED in its entirety for the reasons stated therein; and the Court further

ORDERS that Defendant's decision is **REVERSED** and this case is **REMANDED**,

pursuant to sentence four of 42 U.S.C. § 405(g), "for a proper determination of [P]laintiff's

residual functional capacity to perform his past work and other further proceedings," see Dkt. No.

15 at 30, consistent with Magistrate Judge Baxter's Report-Recommendation; and the Court

further

ORDERS that the Clerk of the Court shall enter judgment in favor of Plaintiff and close

this case.

IT IS SO ORDERED.

Dated: November 18, 2010

Syracuse, New York

Senior United States District Court Judge

uller

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